

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1374 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

GAMESHJI MATHURJI THAKORE

Versus

CHIEF OFFICER

3RD SPECIAL LAND ACQUISITION

Appearance:

1. Special Civil Application No. 1374 of 2000
MR PH PATHAK for Petitioner No. 1
MR RAKESH SHARMA for Respondent No. 1
MR RV DESAI, AGP for Respondent No. 2
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CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 01/11/2001

ORAL JUDGEMENT

#. Rule. Mr.Sharma and Mr.Desai, waive service of rule
for the respondent nos.1 and 2 respectively. With the

consent of the parties, the matter is taken up for final hearing today.

#. The Labour Court, Kalol in Reference No.93 of 1990 passed the order of reinstatement in favour of the present petitioner and he was ordered to be reinstated on his original post with full back-wages. The aforesaid order was passed on 14.5.1997. The Nagarpalika had filed the petition challenging the said award, but the same was dismissed by this Court. By way of present petition, it is prayed by the petitioner that the Nagarpalika should obey the order passed by the Labour Court and the petitioner should be reinstated in service with full back-wages. It was argued by Mr.Sharma appearing for respondent No.1 - Chief Officer, Kalol Nagarpalika that the petitioner employee has already crossed the age of 60 years which is the age of superannuation, and, therefore, there is no question of reinstating him back in service. Mr.Pathak, on the other-hand denied the said fact and asserted that the petitioner has not reached the age of 60 years. In view of the aforesaid controversy, the concerned workman was sent for medical examination. Today, the learned advocate Mr.Sharma has placed on record the certificate given by the General Surgeon of Municipal Hospital, Kalol and as per the said certificate, the age of the petitioner is determined as 65 years. The said certificate has issued after following physical and radiological examination and the same is taken on record.

#. In view of the said certificate, it is clear that the petitioner has already reached the age of 60 years which is the age of superannuation, and, therefore, there is no question of reinstating him back in service. The petitioner will be entitled to the monetary benefit only as per the award of the Labour Court. The Nagarpalika is, therefore, directed to give the benefit of back-wages to the petitioner as per the award of the Labour Court and the said benefit may be given to the petitioner till he reached the age of superannuation i.e. 60 years. Mr.Sharma states that, financial position of the Nagarpalika is not sound. He further submitted that, whatever benefit of the back-wages is required to be given to the concerned workman as per the award of the Labour Court, will be given to him in two equal installments. According to Mr.Sharma, the first instalment of the backwages shall be paid to the concerned workman on or before 10.11.2001 and second instalment will be paid on or before 31.12.2001. Mr.Pathak has also agreed to receive the amount by way of such installments. It is clarified that, benefit of

back-wages is to be given to the petitioner only till he attained the age of superannuation and not beyond that.

#. In view of what is stated above, the petition is allowed to the aforesaid extent. Rule is made absolute with no order as to costs.

(P.B.Majmudar, J)
(pathan)